that one or the other is false. And if the defendant admits that one of the statements is false it seems that this should be controlling. The result of the above rule is that where, as in the principal case, the statements are contradictory, and one of the statements is admitted to be false, there can be no conviction for perjury unless corroboration of the admission is produced. More concretely, the result is that the prosecution may be unable to prove when the perjury was committed, although the fact of commission is absolutely clear.

DESCENT—RELEASE OF EXPECTANCY OF INHERITANCE HELD VOID.—A, whose father had died intestate leaving a farm to his widow and two other children, B and C, in consideration of $2,100, executed his quit-claim deed to the widow. The deed contained this clause: "also all right and title and heirship to and in the personal and real estate of said" widow, "which may be subject to distribution at her decease." After the decease of the widow, intestate, followed by the death of A, the plaintiff, the sole heir at law of A, brought this suit for partition. *Held*, that an attempted release of an expectancy is void and that the clause in the deed would not operate to defeat, by way of estoppel, title afterward acquired from the mother by inheritance. *Ferenbaugh v. Ferenbaugh* (Ohio, 1922), 136 N. E. 213.

The court considered itself bound by an early case. *Needles v. Needles*, 7 Ohio St. 432. The mere expectancy or chance of succession of an heir apparent to his ancestor's estate at his decease is not the subject matter of release or assignment at common law, since it is not an estate but only a mere possibility of an estate. POM. EQ. JUR., § 168; *Coffman v. Coffman*, 41 W. Va. 8. But in equity even the naked possibility or expectancy of an heir to his ancestor's estate may become the subject of assignment or settlement, and in such case, if absence of fraud or oppression and a fair consideration are shown, it will be enforced after the death of the ancestor, not as a trust attaching to the estate but as a right of contract. STORY, EQ. JUR., Vol. 2, § 1040b; POM. EQ. JUR., §§ 168 and 953; *In re Wickersham's Estate*, 138 Cal. 355; *McClure v. Raben*, 125 Ind. 139, where consent of ancestor was deemed required; *Hale v. Hollon et al.*, 90 Tex. 427, holding that the ancestor's assent is not essential to the validity of such conveyance. And it is generally held that a release by an heir apparent to his ancestor of his expectancy of inheritance, if founded upon a valuable consideration and free from fraud, will operate as an agreement and be binding in equity. *Kenney v. Tucker*, 8 Mass. 143; *Brands v. DeWitt*, 44 N. J. Eq. 545, in suit to quiet title, *Havens v. Thompson*, 26 N. J. Eq. 383; in proceedings for a partition of the ancestor's estate, *Kershaw v. Kershaw*, 102 Ill. 307; *Bolin v. Bolin*, 245 Ill. 613; *Powers' Appeal*, 63 Pa. St. 443; *Summerville's Estate*, 129 Pa. St. 631; *Liginger v. Field*, 78 Wis. 367; *Squires v. Squires*, 65 W. Va. 611; *Hilton v. Hilton*, 103 Me. 92. In *Mires v. Laubenheimer*, 271 Ill. 296, the court says that such release to the ancestor by the heir apparent operates, not as a contract or as a transfer or a conveyance either to the ancestor or to the other heirs, but as an extinguishment of his right to take any estate by descent. In *Gore v. Howard*, 94 Tenn. 577, it was held that

an heir apparent, having received a valuable consideration for a release of his expectancy of inheritance, was not such party in interest as could contest the ancestor's will. So also, in *In re Garcelon's Estate,* 104 Cal. 570, where the code provided "a mere possibility, such as an expectancy of an heir apparent, is not to be deemed an interest of any kind," and "a mere possibility, not coupled with an interest, cannot be transferred," it was decided that a contract, made between an heir and the ancestor in good faith and for a valuable consideration, whereby the heir relinquishes all interest in the estate which might vest in him in the future, is valid, the statute being declaratory only. The principal case, thought not in accord with the weight of authority, finds support in some states. *Headrick v. McDowell,* 102 Va. 124; *Elliott v. Leslie,* 124 Ky. 553; *Cass v. Brown,* 68 N. H. 85.

EVIDENCE—ADMISSIBILITY OF NARRATIVE STATEMENT OF AGENT.—Action under the Homicide Statute of Alabama, in tort for damages, for the killing of the plaintiff's intestate by the defendant's chauffeur, who was shown to be acting within the scope of his employment. The chauffeur was not called as a witness at the trial. In his opening statement counsel for the plaintiff stated to the jury that he expected to prove that the chauffeur made a confession that he ran over and killed the child. The defendant objected on the ground that plaintiff could not state that he expects to prove something that is not competent evidence. The trial court allowed the statement to go in and the defendant assigned this as error on appeal. *Held,* that the evidence would have been competent. *Massey v. Pentecost* (Ala., 1921), 90 So. 866.

In arriving at this conclusion the court said: "The testimony of the plaintiff showed he was driving the car that killed the child. The testimony of the defendant's witness was to the contrary. He could have admitted or denied it. If he testified and denied it the plaintiff, on proper predicate, could, if true, prove a confession." The court relied for authority on *McDaniel v. State,* 166 Ala. 7, and *Cross v. State,* 68 Ala. 476. Both these cases were criminal cases where a witness admitted previous inconsistent statements on cross-examination. In the principal case, it seems, the court erred in allowing counsel to make the statement to the jury, for the narrative statement of an agent concerning a past transaction is excluded as purely hearsay by all the authorities. WIGMORE ON EVIDENCE, par. 1078, 22 C. J. 379. The court in its own statement says *"on proper predicate"* the confession would be admissible, and then allows it to go in without any foundation whatever. It is a general rule that previous inconsistent statements of a witness may be shown, upon proper foundation laid, for the purpose of impeaching the witness, but in the principal case the court, relying on this rule, allowed the statement to go in, although the confessor was not to be a witness at the trial and the necessary purpose of the rule, impeachment, was not present. The testimony was clearly inadmissible. *Sloss Sheffield Steel and Iron Co. v. Bibb* (Ala.), 51 So. 345; *Rogers v. Condon, Graham & Miller* (Ga.), 87 S. E. 397; *Gillet v. Shaw* (Mass.), 104 N. E. 719.